

1906-038 Chancery Causes: Norton Hardware Co] vs. S. P. Shupe &  
Lee Co.

Stickley, Norton Grocery Co]

CA-Debt

T-Property



To the Hon. H. A. W. SKeen, Judge of the Circuit Court for Lee County.

Humbly complaining, your orator, Norton Hardware Company, a corporation organized and existing under and by virtue of the laws of the state of Virginia, respectfully represent that S. P. Shupe of Lee County, Virginia, is indebted to it in the sum of \$59.09, which sum is now due and payable, and no part of which has been paid; that the said claim of your orator against the said Shupe is believed to be just and is now due and payable; that your orator is entitled to and ought to recover from the said S. P. Shupe, at least, the sum of \$59.09; that the said S. P. Shupe is converting, or is about to convert, nor has converted his property of whatever kind, to-wit, his stock of merchandise into money, securities and evidences of debt with intent to hinder delay and defraud his creditors; and that the said S. P. Shupe has assigned and disposed of, is about to assign and dispose of, and has assigned and disposed of his property, to-wit his stock of merchandise or some part thereof with intent to hinder delay and defraud his creditors;

Your orator further represents that the said S. P. Shupe has for some time been engaged in the business of a retail merchant in Lee County, Virginia, at a place dalled " Cedar Hill;" and that the aforesaid indebtedness of the said S. P. Shupe to your orator arose out of the sale or sales of merchandise to him by your orator.

Your orator futher represents that the said S. P. Shupe, being a merchant engaged in the byying and selling of merchandise and while indebted to your orator as aforesaid, has within the last few days, sold his entire stock of merchandise or the major portion thereof, in bulk, to one F.R. Stickley, and that such sale was not in the ordinary course of trade, in the regular and usual prosecution of the seller's business with the intention of ceasing to conduct said business, in the same manner and at the same place as he has heretofore conducted the same; that the Said Shupe, before making said sale did not make a full and complete inventory of the merchandise so proposed to be sold, extending in such inventory the values at the ruling wholesale prices thereof; that the said Shupe, before said



sale, did not make a full, true, and correct schedule of all persons to whom he was indebted, stating therein the post office address of each of said creditors, and the amount owing to each of them; that the said S. P. Shupe did not attach to such inventory and schedule his oath that the same was true and correct, and deliver the same to said F. R. Stickley, with said inventory and schedule; that said Shupe did not deliver such inventory and schedule to said F. R. Stickley and retain exact copies thereof in his own possession; that the said S. P. Shupe and F. R. Stickley, did not, ten days before the consummation of the said sale of said stock of merchandise by said Shupe to said F. R. Stickley and before said Stickley took possession of the same, join in giving written or printed notice of such sale and purchase to each of the creditors of said S. P. Shupe, named or who should have been named in the schedule aforesaid, either by registered mail, or otherwise stating in such notices the aggregate value of the merchandise proposed to be sold, the consideration to be paid therefore and the time and manner of making such payment; that said S. P. Shupe failed to make such inventory of said merchandise or, if he did make it, failed to state therein the true value of said goods at ruling wholesale prices, and said S. P. Shupe failed to make such true and correct schedule of his creditors, all of which facts said F. R. Stickley had knowledge at the time of his purchase; and that neither the said S. P. Shupe nor the said F. R. Stickley have in any way complied with the letter or spirit of Sec. 2460a Code of Virginia, 1904 ( Acts 1902-3-4 p.518 cc)

Your orator further represents that the said F. R. Stickley has withdrawn and removed the stock of merchandise so purchased by him as aforesaid from the store house in which they were contained on "Cedar Hill" in placed them in his store at White Shoals where he has mixed and mingled them with another stock of merchandise owned by him, and has doubtless disposed of a large portion of them to his customers.

Your orator further represents that the said F. R. Stickley is indebted to the said S. P. Shupe for a large part if not all of the



purchase price of the said stock of merchandise so purchased by him as aforesaid from said Shupe.

Now therefore your orator is advised that under the facts and circumstances above set forth and under the laws of Virginia, that the said sale is fraudulent and that it has the right to attach the said merchandise and hold the same liable to their said debt, and also to attach the indebtedness of said Stickley to said Shupe, and such is the object of this bill.

The prayer, therefore, of your orator is that S. P. Shupe and F. R. Stickley be made parties defendant to this bill; that they each be required to answer its several allegations, but they need not do so under oath as that is waived; that the debts or debts owing by the said F. R. Stickley to the said S. P. Shupe and also any other estate of the said S. P. Shupe, whether in his own hands, or in the hands of the said F. R. Stickley, be attached for the amount of its said claim, and such estate so attached be held liable to the orders of the Court; that personal judgement be rendered against said S. P. Shupe and F. R. Stickley for the amount of said debt and its interest and costs; and that full general relief be granted your orator.

May subpoena issue, with order attachment endorsed.

*L. P. Hyatt per.*



~~by the said P. R. Stickley, that a personal judgement be rendered against the said Stickley for the amount of claim.~~

Virginia Lee County to-wit:

This day personally appeared before me, Geo. P. Cridlin, a Commissioner in Chancery of <sup>Circuit</sup> Court of Lee County, <sup>va</sup> L. J. Hyatt Attorney for Norton Hardware Company <sup>and</sup> made oath before me in my said County that the statements made in the foregoing bill of complaint in so far as made <sup>from</sup> ~~by~~ his own knowledge and are true, and ~~not~~ so far as made on information derived from other sources he believes them to be true; that the plaintiff in said bill is entitled to and ought to recover against the defendant S. P. Shupe the sum of \$59.09 with interest thereon from the 15th day of Oct. 1906, at the least and that the plaintiffs claim is believed to be just and that he believes the defendant, S. P. Shupe is converting, is about to convert, and has converted his property, to-wit, his stock of merchandise or some part thereof, ~~into~~ <sup>into</sup> money, securities and evidences of debt with ~~the~~ intent to hinder, delay and defraud his creditors; and that the said S. P. Shupe has assigned and disposed of, and is about to assign and dispose of his estate or some part thereof with ~~the~~ intent to hinder, delay and defraud his creditors.

Given under my hand this 16th day of Oct. 1906.

*Geo. P. Cridlin*

Commissioner in Chancery.



In the Circuit Court of Lee County Virginia:

Norton Hardware Company ----- Plaintiff.

Vs. { *Affidavit.*

S. P. Shupe and F. R. Stickley -----Defendant.

Virginia Lee County to-wit:

This day personally appeared Before me H. C. T. Ewing, Clerk of Circuit Court for Lee county Virginia, L. T. Hyatt, Attorney for Norton Hardware Company, *who* made oath before me in my said county that a suit has been instituted in the said Court by the said plaintiff to recover against S. P. Shupe, Defendant, the sum of \$59.09 with interest thereon from the 15th day of Oct. 1906, until payment which sum ( at the least) the affiant believes the plaintiff *is* entitled to ~~or~~ *and* ought to recover, and that the plaintiff's claim is believed to be just, and that the affiant believes that the defendant S. P. Shupe is converting, ~~or~~ is about to convert, ~~or~~ *and* has converted his property, to-wit, his stock of merchandise, or some part thereof, into money, securities, or evidences of debt with intent to hinder, delay ~~or~~ *and* defraud his creditors; and has assigned or disposed of ~~or~~ *and* is about to assign ~~or~~ *and* dispose of his estate or some part thereof with intent to hinder, delay or defraud his creditors.

Given under my hand this the 16th day of Oct. 1906.

*H. C. T. Ewing* Clerk.

*Filed October, 16 1906.*

*H. C. T. Ewing,*  
*clerk.*



Norton Hardware Co.,  
vs { In Chancery.  
S. P. Shupe et al.,

Filed October, 16, 1906.

H. C. T. Ewing,  
Clerk.

Clerk 255  
Set at 1st Nov

Dismissed  
1st Nov R, 1906,

L. T. HYATT,  
ATTORNEY AT LAW,  
JONESVILLE, VIRGINIA.



To the Honorable H.A.W.Skeen, Judge of the Circuit Court of Lee  
County Virginia:

Humbly complaining your Complainant Norton Grocery Company a corporation, would respectfully represent and show unto your honor, that one S.P. Shupe is justly indebted to them in the sum of \$163.11, which became due and payable on the 12<sup>th</sup> day of October 1906, that the same is just due and unpaid and that your complainant ought to recover at the least the aforesaid sum of \$163.11, with its interest aforesaid and that the said S.P. Shupe is assigning and disposing of his property and converting the same into money and evidences of debt with the intent to hinder delay and defraud his creditors and especially your complainant, and has sold and disposed of his property, especially a stock of General Merchandise, for the purpose of hindering delaying and defrauding his creditors.

Your orator further represents that the said S.P. Shupe, has for some time been engaged in the Mercantile business, in Lee County Va. near Haggan, and that the aforesaid indebtedness, became due to your complainant for Goods and Merchandise while engaged in business at said place, and while engaged as such in the last few days has sold his entire stock of Merchandise to one F.R. Stickley, and that said sale was not in the ordinary course of business, and trade; that the said Shupe before making said sale did not comply with the law in such case made and provided to wit, Acts of the General Assembly 1902-3-4-page 518 &c.

Your complainant further represents that the said F.R. Stickley has taken possession of the said Goods, but has not yet paid said Shupe the purchase price therefor, but owes the said Shupe \$315. therefor.

Your complainant alleges that S.P. Shupe has still a remnant of goods left on hands, and he prays that an attachment may issue and said Goods wares and General Merchandise be attached and the said F.R. Stickley be garnished.

Your complainant would further show that the Norton Hardware Co. has filed its bill in your honors court asking the same relief here asked for and praying an attachment against the said Shupe, and your Complainant prays that he be permitted to file this his petition in said cause, and making said bill a part of this his said petition, and asking that it be treated as part hereof.

Now therefore your petitioner prays that the said S.P. Shupe and F.R. Stickley be made parties defendant to this petition and answer the same, but not on oath that being waived; that the debt owing by the said F.R. Stickley to the said S.P. Shupe be attached for the amount of your complainants said debt, and any other estate of the said Shupe and such estate so attached be held liable to the payment of your complainants said debt; that a judgment be rendered, personal, against the said defendant S.P. Shupe; that full and general relief be granted your petitioner, and he will ever pray &c.

*M. G. Ely*

for Petitioner.

Virginia Lee County to wit:

I, H.C. Joslyn a justice of the peace for the County aforesaid in the State of Virginia, do certify that M.G. Ely attorney and agent for the Norton Grocery Company, personally appeared before me and made oath that the statements made in the foregoing bill he believes to be true. Given under my hand this Oct. 21<sup>st</sup> 1906.

*H. C. Joslyn* J.P.



Worton Grocery Co  
Petition in case of  
U.S. Mortgage Hdw - Co. No. 80 S.

S. P. Shupe and alts

Filed Oct. 22, 1906.

A. C. Ewing,  
Clerk



MONTHLY STATEMENT

NORTON, VA

Oct. 12 1906

M

*S. P. Shupe*

*Nagaw, 7<sup>th</sup>*

**to Norton Grocery Co., Dr.**

NOTE.—As soon as possible after the first of each month we send statements of all bills as per our ledger. This rule affords opportunity for corrections of errors, if any, and we trust will not be considered an untimely demand for recent purchases.

*10/12 Balance* \$ *163.11*  
Statement Rendered

To Mdse. days

*Virginia Lee County Court;*  
*This day W. B. Allen, a*  
*member of the firm*  
*Norton Grocery Company*  
*personally appeared before*  
*me and made oath*  
*that the above account*  
*of \$163.11 against S. P.*  
*Shupe is justly due*  
*the Norton Grocery Co.*  
*Given under my*  
*hand This 22<sup>nd</sup> day*  
*of Oct 1906.*  
*H. C. Jordan J. C.*



The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, That you summon

*S. P. Shupe and F. R. Stickley*

to appear at the Clerk's office of the Circuit Court of the County of Lee, at rules to be held for the said court,  
on the *1st* Monday in *November*, 190*6*, to answer a bill in chancery exhibited against

*them by Norton Hardware Co., a corporation,*

And have then there this writ. Witness, H. C. T. EWING, Clerk of our said Court, at the court-house, the *16th*  
day of *Oct*, 190*6*, and 1.....year of the Commonwealth.

A Copy, Teste:

*H. C. T. Ewing*, Clerk

-----, Clerk.



COMMONWEALTH OF VIRGINIA:

To the Sheriff of Lee County, Greeting:

Whereas, Norton Hardware Company, a corporation, has, in the Clerk's office of the Circuit Court of the County of Lee, this day filed a bill in equity against S.P.Shupe and F.R.Stickley for the purpose of having an attachment to secure and enforce its claim against S.P.Shupe to a debts; and

Whereas, L.T.Hyatt, Attorney for the said Norton Hardware Co., plaintiff in said bill, has before me in my said office, in the County of Lee and State of Virginia, made affidavit that the plaintiff's claim is believed to be just and is now due and payable; that the affiant believes that the plaintiff is entitled to and ought to recover at least the sum of \$59.09; and that to the best of affiant's belief the said defendant S.P.Shupe is converting or is about to convert or has converted his property of whatever kind, to-wit, his stock of merchandise or some part thereof, into money, securities, and evidences of debt with intent to hinder, delay and defraud his creditors, and has assigned and disposed of, or is about to assign or dispose of his estate, to-wit: his stock of merchandise, or some part thereof, with intent to hinder, delay and defraud his creditors; and

Whereas, upon such affidavit, the plaintiff doth now require me, the said Clerk, to endorse on a summon, an order to officer to whom it is directed, to attach the debts owing by the defendant, F.R.Stickley to the defendant S.P.Shupe against whom the claim is, and also any other estate of the said S.P.Shupe, whether in his own hands or other defendants:

Therefore, we order and command you that you attach the debts and estate above mentioned for the amount of the said claim of the said Norton Hardware Co., and such estate so attached in your hands to secure that the same shall be forthcoming and liable to further proceedings thereupon to be had before our said Circuit Court at rules to be held in the Clerk's Office of our said Court on the first Monday in November, 1906, and that you on the first day of said rules have then and there this writ and make return how you have executed the same.

Witness, H.C.T.Ewing,  
Clerk of our said Court,  
at the Courthouse thereof, in the County and State aforesaid, the  
16th day of Oct. 1906.

*H.C.T. Ewing*  
Clerk.

Court.

Rules.

P. F.

SUBPENA  
IN  
CHANCERY.

VS

*W.B. Shorpe*  
Def.

*P.M. Ball, Sheriff of Lee County, Va.*

*S.P. Shupe*

*Norton Hardware Co.*

*S.P. Shupe*

*S.P. Shupe*

*Executed on the 18th day of October, 1906.*

*within the County of Lee, by delivering*

*a true copy of this summon and attach-*

*ment, in writing, to S.P. Shupe and F.R. Stick-*

*ley, being the person who is designated*

*by the plaintiff in the endorsement hereon*

*as being indebted to and as having in*

*his possession effects of the defendant,*

*S.P. Shupe.*

*P.M. Ball, Sheriff of Lee County, Va.*

*W.B. Shorpe*

*S.P. Shupe*

*S.P. Shupe*